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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,958	11/26/2001	Steven Barnes	11702/54246	6773

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EXAMINER

ROSSI, JESSICA

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 08/13/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/992,958

Applicant(s)

BARNES ET AL.

Examiner

Jessica L. Rossi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 9-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other: .

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-8, drawn to a reconditioned refrigerant storage tank labeling apparatus, classified in class 156, subclass 349.
  - II. Claims 9-11, drawn to a method of recording information regarding refrigerant vessel, classified in class 156, subclass 86.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus as claimed can be used to practice a materially different process such as one where the label/sleeve is not removed from the tank/vessel. Also, the method as claimed can be practiced by another and materially different apparatus such as one wherein the heat shrink label is not in the form of a sleeve.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Mr. Sullivan on 8/4/03 a provisional election was made **without traverse** to prosecute the invention of Group I, claims 1-8. Affirmation of this election must be made by applicant in replying to this Office action. Claims 9-11 are withdrawn

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from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Note rejoinder will be considered upon the discovery of allowable subject matter, depending on the basis thereof.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

#### ***Specification***

7. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

Regarding claim 8, the specification (p. 11, line 16) has support for the thickness being about 0.002-0.003 mm but does not have support for the thickness being between about 2 and 3 mils., as set forth in the present claim. It is suggested to change the claim to be in accordance with the specification.

#### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boitnott (US 6422029) in view of the Admitted Prior Art in the specification of the present application and Nugent (US 5000804).

\*It is noted that the present invention is directed to a refrigerant storage tank labeling apparatus comprising a heat-shrinkable PVC sleeve having printed information thereon, wherein this information enables the handler to safely store and transport the contents within (i.e. contents printed on sleeve to prevent mixing with other substances that might lead to dangerous reaction; p. 3, 1<sup>st</sup> paragraph).

With respect to claim 1, Boitnott teaches a reconditioned refrigerant storage tank labeling apparatus comprising a heat-shrinkable, plastic sleeve 20 (abstract) that is shrunk around the service port of the tank and is provided with general labeling information (Figure 2; column 1, lines 19-26; column 3, lines 8-9 and 15-20 and 35-36). The reference is silent as to the labeling information regarding the contents of the tank and the sleeve also having a writeable portion for providing content information.

Selection of the particular information provided on the sleeve of Boitnott would have been within purview of the skilled artisan at the time the invention was made depending on the information to be conveyed to the handler. Furthermore, it is notoriously well-known and conventional in almost every industry to label the contents of a container, package, tank, etc. especially when it contains potentially harmful substances and it will be handled by human beings.

However, it is known in the art to place a label on a refrigerant storage tank wherein the label provides information regarding the contents, as taught by the Admitted Prior Art (p. 2-6).

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It is also known in the labeling apparatus art to heat-shrink a sleeve onto a container wherein the sleeve has content information thereon, as taught by Nugent (column 3, lines 6-15). Therefore, it would have been obvious to the skilled artisan at the time the invention was made to print the contents of the tank on the sleeve of Boitnott because such is known in the art, as taught by the Admitted Prior Art and Nugent, and this ensures proper handling of the tank.

One reading the references as whole would have appreciated that the sleeve of Boitnott would have been capable of receiving hand-written information, be it desired or not. However, it would have been obvious to treat the plastic sleeve of Boitnott so as to make the surface appropriate for the handler to write content information thereon because a labeling apparatus comprising a plastic, heat-shrinkable sleeve having a treated surface to allow for both printed and writeable portions for providing content information is known, as taught by Nugent (column 2, line 39; column 3, lines 5-15 and 56), and this allows for user-specific information to be recorded on the sleeve during handling.

Regarding claims 2-7, selection of the particular types of information to be printed on the sleeve would have been within purview of the skilled artisan at the time the invention was made depending on the type of information to be conveyed to the handler. However, the skilled artisan would have appreciated that the types of information recited in the present claims are well-known and conventional in the labeling art, especially when labeling containers/tanks housing potentially dangerous and harmful substances. Furthermore, the skilled artisan would have been motivated to print these various types of information on the sleeve of Boitnott because such labeling information is known in the refrigerant storage tank art, as taught by the Admitted Prior Art (p. 2-4). Also, the skilled artisan would have been motivated to print more than one type of

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information on the same sleeve because such is known in the art, as taught by Nugent (column 3, lines 5-10), and this eliminates the need for multiple labels.

10. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boitnott, the Admitted Prior Art, and Nugent as applied to claim 2 above, and further in view of Culp (US 5922158; provided in IDS).

Regarding claim 8, selection of a particular thickness would have been within purview of the skilled artisan at the time the invention was made. However, it would have been obvious to use a sleeve having a thickness between about 0.002 and 0.003 mm because such is known in the heat-shrinkable sleeve labeling apparatus art, as taught by Culp (column 3, lines 26-27).

11. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over the collective teachings of Culp, Klauke et al. (US 6063223), and Brossia et al. (US 5275015), in view of the Admitted Prior Art in the specification of the present application, Boitnott, and Nugent, or alternatively, the Admitted Prior Art in view of the collective teachings, Boitnott, and Nugent.

With respect to claim 1, if it is not taken that the refrigerant system of Boitnott is a refrigerant storage tank...

A labeling apparatus for large, cylindrical containers/storage tanks comprising a heat-shrinkable, plastic sleeve having information printed thereon is known in a variety of arts, as taught by the collective teachings of Culp (propane storage tank; abstract; column 3, lines 50-63), Klauke (container for active ingredients; column 4, lines 50-56; column 5, lines 20-22), and Brossia (container-cooler for large volume of beer; abstract; column 4, lines 19-22).

More specifically, the sleeve 20 of Culp is used to label a reconditioned propane storage tank 10 (Figure 1). The reference teaches the sleeve being heat-shrinkable PVC that is shrunk

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about the tank and is provided with printed labeling information, such as operating instructions 24 and a fuel level indicator 25 (column 3, lines 18-19 and 31 and 50-63). The reference teaches the sleeve being an improvement over prior art labeling methods because it eliminates the need for repainting of the tank during reconditioning while also eliminating the need to use adhesive labels (abstract; column 1, lines 58-59). The reference is silent as to using the sleeve to label a refrigerant storage tank and the sleeve having a writeable portion.

Reconditioned refrigerant storage tanks having printed information thereon are known in the art, as taught by the Admitted Prior Art (p. 2-6). This information is usually attached to the tank in the form of a paper or adhesive label and it usually pertains to such things as the contents within the tank, DOT regulations, MSDS information, etc. (p. 2-6). Therefore, it would have been obvious to the skilled artisan at the time the invention was made to print content information on the labeling sleeve of the collective teachings, specifically those of Culp, and use the same to label a refrigerant storage tank of the Admitted Prior Art because this would ensure safe handling of the refrigerant tank.

Furthermore, the skilled artisan would have been motivated to look to the Admitted Prior Art for another type of tank, besides a propane tank, that could be labeled using a shrink-sleeve apparatus, since such sleeves are recognized and appreciated in the refrigeration system art wherein a heat-shrinkable sleeve 20 having content information 22 thereon is heat-shrunk onto a service port of the refrigeration system in order to prevent the unwanted mixing of refrigerants within the system, as taught by Boitnott (column 3, lines 8-20 and 35-36; column 1, lines 19-25).

Alternatively, it would have been obvious to the skilled artisan at the time the invention was made to apply the content information label of the Admitted Prior Art to the refrigerant tank



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in the form of a heat-shrinkable, plastic sleeve as an alternative to the paper and adhesive labels of the Admitted Prior Art because such an apparatus is known in a wide variety of arts for labeling storage tanks, as taught by the collective teachings of Culp, Klauke, and Brossia, and this would eliminate the need for repainting of the tank during reconditioning.

One reading the references as whole would have appreciated that the sleeve would have been capable of receiving hand-written information, be it desired or not, since both Culp and the present invention teach a PVC sleeve. However, it would have been obvious to treat the PVC sleeve of Culp so as to make the surface appropriate for the handler to write content information thereon because a heat-shrinkable, PVC sleeve having a treated surface to allow for both printed and writeable portions for providing content information is known, as taught by Nugent (column 2, line 39; column 3, lines 5-15 and 56), and this allows for user-specific information to be recorded on the sleeve during handling.

Regarding claims 2-7, selection of the particular types of information to be printed on the sleeve would have been within purview of the skilled artisan at the time the invention was made depending on the type of information to be conveyed to the handler. However, the skilled artisan would have appreciated that the types of information recited in the present claims are well-known and conventional in the labeling art, especially when labeling containers/tanks housing potentially dangerous and harmful substances. Furthermore, the skilled artisan would have been motivated to print these various types of information on the sleeve because such labeling information is known in the refrigerant storage tank art, as taught by the Admitted Prior Art (p. 2-4). Also, the skilled artisan would have been motivated to print more than one type of

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information on the same sleeve because such is know in the art, as taught by Culp (column 3, lines 53-63) and Nugent (column 3, lines 5-10), and this eliminates the need for multiple labels.

Regarding claim 8, Culp teaches the sleeve having a thickness between about 0.002-0.003 mm (column 3, lines 26-27).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Jessica L. Rossi** whose telephone number is **703-305-5419**. The examiner can normally be reached on M-F (8:00-5:30) First Friday Off.

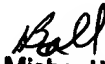
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael W. Ball can be reached on 703-308-2058. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Jessica L. Rossi  
Patent Examiner  
Art Unit 1733



jl  
August 6, 2003

  
Michael W. Ball  
Supervisory Patent Examiner  
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